

## STANDARDS OF CONDUCT

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### OBJECTIVE

It is the Commonwealth's objective to promote the well-being of its employees in the workplace and to maintain high standards of professional conduct and work performance. Accordingly, this policy sets forth (1) standards for professional conduct, (2) behavior that is unacceptable, and (3) corrective actions that agencies may impose to address behavior and employment problems.

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### I. EMPLOYEES TO WHOM POLICY APPLIES

[REVISED 3/97] This policy applies to positions covered by the Virginia Personnel Act to include full-time and part-time classified and restricted employees. *It excludes employees in "at will" positions and employees who are serving probationary periods.* (See section II of Policy 2.20, Types of Employment.)

Although this policy does not apply to employees who are not covered by the Virginia Personnel Act, such as wage employees, probationary employees and employees expressly excluded from the Act's coverage, agencies may wish to refer to the standards of conduct offenses described herein as guidelines for evaluating such employees' behavior.

### II. DEFINITIONS

#### A. Corrective action

Any action taken by management to address employment problems, such as unacceptable performance and/or behavior. Corrective action may range from an informal action such as counseling, as described in section II(B) below, to formal disciplinary action, as described in section II(C) below.

#### B. Counseling

##### 1. Informal discussion

Counseling typically consists of an informal discussion between an employee and his or her supervisor regarding problems with the employee's work performance and/or behavior. The counseling discussion may or may not be documented in a written memorandum.

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2. Interim evaluation

Counseling, particularly when related to work performance, may be part of an interim evaluation, as described in Policy 1.40, Performance Planning and Evaluation.

**C. Disciplinary action**

An action taken in response to an employee's behavior, as described in section V. Disciplinary actions may range from the issuance of an official Written Notice only (see Attachment I) to issuance of a Written Notice and termination.

[REVISED 9/00]

*Disciplinary action also may include demotion or transfer in lieu of termination. In such cases, the agency must initiate a disciplinary salary action. With a disciplinary salary action, employees may be retained in their current positions and have their duties reduced or be moved to positions in the same or lower pay band with less job responsibilities. In either case, the employee's salary must be reduced by at least 5%. In no case may an employee's salary exceed the maximum of the pay band following a disciplinary salary action.*

**D. Standards of conduct**

Positive expectations for work performance and workplace behavior.

**E. Suspension**

An employee's absence from work, without pay, that an agency imposes as a part of a disciplinary action and/or to remove the employee from the workplace pending (1) an investigation related to his or her conduct, or (2) a court action.

**F. Unacceptable standards of conduct**

Unacceptable employee behavior for which specific disciplinary action is warranted.

[REVISED 7/94]

**G. Workweek**

A fixed period of seven consecutive 24-hour periods which is established by the employer for each employee. It may begin on any day of the week and at any hour of the day; it need not coincide with the calendar week. Full-time employees normally work a five-day, 40-hour schedule during a workweek.

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### **III. STANDARDS OF CONDUCT**

The following standards are not all-inclusive, but are intended to be illustrative of the minimum expectations for acceptable work performance and workplace behavior.

#### **A. Attendance**

1. Employees should report to work as scheduled.
2. If employees cannot report as scheduled
  - a. Employees should arrange planned absences, including reporting to work late or leaving work early, in advance with supervisors.
  - b. Employees should report unexpected absences, including reporting to work late or having to leave early, to supervisors as promptly as possible.
3. Overtime
  - a. Employees should work overtime hours as directed by their supervisors or management.
  - b. Non-exempt employees (as defined by the Fair Labor Standards Act) should not work overtime without advance authorization from their supervisors.

#### **B. Satisfactory work performance**

1. Employees are expected to meet established performance standards, as set forth in the Performance Plan, which is described in Policy 1.40, Performance Planning and Evaluation.
2. As needed, supervisors should assist employees in understanding the expectations of these Standards of Conduct and those set forth in employees' Performance Plans.

#### **C. Compliance with policies**

Employees are expected to abide by all policies promulgated by the Department of Human Resource Management and their agencies.

#### **D. Report circumstances that affect satisfactory work performance**

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1. Employees should report to their supervisors any conditions or circumstances that prevent satisfactory work performance.
2. Employees should advise their supervisors of unclear instructions or procedures that may affect satisfactory work performance.

**E. Outside employment**

1. Employees may not engage in any other employment in other agencies, outside of state service, in any private businesses, or in the conduct of professions, either:
  - a. during the hours for which they are employed to work; or
  - b. outside their work hours if such employment is deemed by employing agencies to affect employees' work performance or to be in violation of the Virginia Conflict of Interests Act.
2. Employees are required to notify agencies of outside employment according to agency policies. Agencies may deny employee requests for engaging in outside employment based on sections III(E)(1) (a) and (b) above.
3. No property belonging to or under contract to the Commonwealth may be used for outside employment activities.

**IV. REMOVALS DUE TO CIRCUMSTANCES WHICH PREVENT EMPLOYEES FROM PERFORMING THEIR JOBS**

**A. Inability to meet working conditions**

An employee unable to meet the working conditions of his or her employment due to circumstances such as those listed below may be removed under this section. Reasons include:

1. loss of driver's license that is required for performance of the job;
2. incarceration for an extended period;
3. loss of license or certification required for the job; or
4. *conviction of a misdemeanor crime of domestic violence for employees whose jobs require: (a) carrying a firearm; or (b) authorization to carry a firearm.*

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*NOTE: A "misdemeanor crime of domestic violence" means an offense that: (1) is a misdemeanor under federal or state law; and (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. (See Title 18, U.S. Code, section 922(g)(9).*

**B. Resignation or "removal"**

If an employee is removed under section IV(A) above, such removal, if not a resignation, shall be reported to the Personnel Management Information System as "Remove" with a description of the circumstance written on the transmittal document.

**C. Due process**

Prior to such removal, the appointing authority and/or Human Resource Office shall gather full documentation supporting such action and shall notify the employee, verbally or in writing, of the reasons for such a removal, giving the employee a reasonable opportunity to respond to the charges. Final notification of removal should be via memorandum or letter, not by a Written Notice form.

**V. UNACCEPTABLE STANDARDS OF CONDUCT (OFFENSES)**

**A. Not all-inclusive**

The offenses set forth below are not all-inclusive, but are intended as examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense that, in the judgment of agency heads, undermines the effectiveness of agencies' activities, may be considered unacceptable and treated in a manner consistent with the provisions of this section.

**B. Grouped according to severity**

The offenses listed below are organized into three groups according to the severity of the behavior, with Group I being the least severe.

See section VII(D)(1) for related disciplinary action.

**1. Group I**

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- a. Unsatisfactory attendance or excessive tardiness
- b. Abuse of state time, including, for example, unauthorized time away from the work area, use of state time for personal business, and abuse of sick leave
- c. Use of obscene or abusive language
- d. Inadequate or unsatisfactory work performance
- e. Disruptive behavior
- f. Conviction of a moving traffic violation while using a state-owned or other public-use vehicle
- g. Violation of Policy 1.05, Alcohol and Other Drugs (considered a Group I offense depending on the nature of the violation)
- h. Violation of Policy 2.30, Workplace Harassment (considered a Group I offense depending upon the nature of the violation)
- i. Violation of Policy 2.05, Equal Employment Opportunity (considered a Group I offense depending upon the nature of the violation)

2. Group II

These offenses include acts and behavior that are more severe in nature and are such that an accumulation of two Group II offenses normally should warrant removal. See section VII(D)(2) for related disciplinary actions.

- a. Failure to follow a supervisor's instructions, perform assigned work, or otherwise comply with established written policy
- b. Violating a safety rule where there is not a threat of bodily harm
- c. Leaving the work site during work hours without permission
- d. Failure to report to work as scheduled without proper notice to supervisor(s)
- e. Unauthorized use or misuse of state property or records

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- f. Refusal to work overtime hours as required
- g. Violation of Policy 1.05, Alcohol and Other Drugs (considered a Group II offense depending upon the nature of the violation, such as reporting to work when impaired by or under the influence of alcohol, or the unlawful use of a controlled drug)
- h. Violation of Policy 2.30, Workplace Harassment (considered a Group II offense depending upon the nature of the violation)
- i. Violation of Policy 2.05, Equal Employment Opportunity (considered a Group II offense depending upon the nature of the violation)

3. Group III

These offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. See section VII(D)(3) for related disciplinary actions.

- a. Absence in excess of three days without proper authorization or a satisfactory reason
- b. Falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records, or other official state documents
- c. Willfully or negligently damaging or defacing state records, state property or property of other persons (including, but not limited to, employees, patients, supervisors, inmates, visitors and students)
- d. Theft or unauthorized removal of state records, state property, or the property of other persons (including, but not limited to, employees, patients, supervisors, inmates, visitors and students)
- e. Gambling on state property or during work hours
- f. Fighting and/or other acts of physical violence
- g. Violating safety rules where there is a threat of physical harm
- h. Sleeping during work hours

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- i. Participating in any kind of work slowdown or similar concerted interference with state operations
- j. Unauthorized possession or use of firearms, dangerous weapons, or explosives
- k. Threatening or coercing persons associated with any state agency (including, but not limited to, employees, supervisors, patients, inmates, visitors, and students)
- l. Criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to agencies' duties to the public or to other state employees
- m. Violation of Policy 1.05, Alcohol and Other Drugs (considered a Group III offense depending on the nature of the violation, such as the use of alcohol or unlawful use or possession of a controlled drug while on the job)
- n. Violation of Policy 2.30, Workplace Harassment (considered a Group III offense depending upon the nature of the violation)
- o. Violation of Policy 2.05, Equal Employment Opportunity (considered a Group III offense depending upon the nature of the violation)
- p. *Failure of an employee whose job requires carrying a firearm or authorization to carry a firearm to report conviction for a "misdemeanor crime of domestic violence" (as defined in Sec. IV.A.4., page 4).*

[REVISED 3/97]

## **VI. CORRECTIVE ACTION**

### **A. When corrective action should be used**

As soon as a supervisor becomes aware of an employee's unsatisfactory behavior or performance, or commission of an offense, the supervisor and/or management should use corrective action to address such behavior.

### **B. Which corrective action is appropriate**

The following are possible corrective actions:



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1. referral to the *employee assistance program* or other professional assistance;
2. counseling; and/or
3. disciplinary action.

**C. Choice of corrective action**

Whether a supervisor uses informal counseling or formal disciplinary action depends upon the nature of the behavior and surrounding circumstances. Management should apply corrective actions consistently, while taking into consideration the specifics of each individual case.

1. Employee Assistance Program

[REVISED 9/00]

Before the need for, or in addition to, corrective action, supervisors may refer employees to the *employee assistance program*, as appropriate. Referral to the *employee assistance program* shall **not be considered a substitute** for any disciplinary action imposed for the commission of an offense.

2. Counseling

- a. While it is hoped that most performance and behavior problems can be resolved through informal counseling, counseling is not a prerequisite to formal disciplinary action.
- b. Counseling should consist of private discussion between employees and their supervisors regarding:
  - (1) the desired course of action to improve the employees' performance and/or behavior; and
  - (2) supervisors' expectations for employees.
- c. Documentation of counseling
  - (1) Documentation permissible

Counseling may be documented by a letter or memorandum, but not on the Written Notice form.
  - (2) Retention of counseling documentation

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Documentation regarding counseling should be retained in the supervisors' files, not in employees' personnel files, except as necessary to support subsequent formal disciplinary action.

3. Disciplinary actions (see section VII)

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**VII. PROCEDURES FOR IMPLEMENTING DISCIPLINARY ACTIONS**

- A.** Disciplinary action should be used in response to the commission of offenses, and may consist of a Written Notice and:

- [REVISED 9/00]
1. suspension;
  2. transfer *or demotion along with a disciplinary salary action (see section II.C)*; and/or
  3. termination.

**B. Procedures regarding issuance of Written Notices**

1. Timeliness

Management should issue a Written Notice as soon as possible after an employee's commission of an offense.

2. The active life of a Written Notice

The severity of a Written Notice depends upon the type of offense for which it is issued, and is measured by the period for which it is "active", as set forth below.

- a. A Written Notice for a Group I offense is active for two years from its date of issuance to the employee.
- b. A Written Notice for a Group II offense is active for three years from its date of issuance to the employee.
- c. Written Notice for a Group III offense is active for four years from its date of issuance to the employee.
- d. The active periods stated above are definite and may not be extended due to an employee's absence.
- e. Written Notices that are no longer active shall not be considered in an employee's accumulation of Written Notices, or in determining the appropriate disciplinary action for a new offense.

3. Retention of Written Notices

Except as provided in section VII(B)(4)(a) below, Written Notices shall be kept in employees' personnel files.

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4. Exception to retention of Written Notices in personnel files
  - a. A Written Notice may be removed from an employee's personnel file if the agency modifies or vacates its disciplinary action. If, through the grievance procedure, it is determined that the Written Notice issued was not justified, the panel may direct its removal from the employee's personnel file.
  - b. A Written Notice removed from an employee's personnel file according to section VII(B)(4)(a) above shall not be destroyed but shall be retained in a grievance file or separate confidential file.
  - c. A Written Notice removed according to section VII(B)(4)(a) above shall not be considered in relation to any future disciplinary or other personnel action, i.e., counted towards the accumulation of Written Notices as specified in section VII(B)(2) above.

**C. Mitigating circumstances**

1. While the disciplinary actions imposed shall not exceed those set forth in this policy for specific offenses, agencies may reduce the disciplinary action if there are mitigating circumstances, such as:
  - a. conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or
  - b. an employee's long service or otherwise satisfactory work performance.
2. Alternatives to discharge
  - a. Mitigating circumstances may result in an employee's demotion or transfer and a disciplinary salary action (see section II.C.), and/or suspension, as an alternative to discharge.
  - b. When suspension is determined to be the appropriate alternative to discharge by an agency, it shall not exceed 30 workdays for a Group III offense or for an accumulation of four Group I and two Group II offenses.

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**D. Disciplinary actions for specific offenses**

1. For Group I offenses

a. Normal disciplinary action

The normal disciplinary action for a Group I offense is the issuance of a Written Notice.

b. Group I Written Notices are cumulative.

(1) Upon the accumulation of three active Written Notices for Group I offenses, the employee normally should be suspended without pay for no more than five workdays.

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(2) A fourth active Written Notice for a Group I offense normally should result in discharge, except that mitigating circumstances may justify the transfer or demotion *along with a disciplinary salary action (see section II.C)*. It also may justify suspension for up to 30 workdays as an alternative to discharge.

2. For Group II offenses

a. Normal disciplinary action

The normal disciplinary action for a Group II offense is issuance of a Written Notice only, or a Written Notice and up to ten workdays of suspension without pay.

b. Group II Written Notices are cumulative

(1) A second active Group II Written Notice normally should result in discharge.

(2) A Group II Written Notice following three active Group I Written Notices normally should result in discharge.

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c. Mitigating circumstances

(1) Mitigating circumstances related to an employee's commission of a second Group II offense may result in the employee's demotion or transfer *along with a*

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*disciplinary salary action (see section II.C).* The employee also may be suspended for up to 30 workdays, as an alternative to discharge.

- (2) If an employee is not discharged due to mitigating circumstances, the agency should notify him or her that a subsequent Written Notice for any level of offense that the employee may receive during the active life of the Written Notice may result in discharge.

3. For Group III offenses

a. Normal disciplinary action

The normal disciplinary action for a Group III offense is the issuance of a Written Notice and discharge.

b. Mitigating circumstances

[REVISED 9/00]

- (1) Mitigating circumstances related to an employee's commission of a Group III offense may result in the employee's demotion or transfer *along with a disciplinary salary action (see section II.C)*. The employee also may be suspended for up to 30 workdays.

- (2) If an employee is not discharged due to mitigating circumstances, the agency should notify him or her that any subsequent Written Notice received by the employee for any level of offense during the active life of the Written Notice may result in discharge.

[REV. 9/00]

**E. Procedures related to disciplinary suspension, demotion *or* transfer *with disciplinary salary action*, or termination (due process)**

1. Role of Agency Human Resource Directors

Prior to any action being taken, Agency Human Resource Directors, or their designees, are responsible for:

- a. reviewing all disciplinary actions involving demotion *or* transfer *and disciplinary salary action (see section II.C)*, suspension, or discharge to determine whether mitigating circumstances exist that warrant a modified disciplinary action and/or referral to *the employee assistance program*;

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and

- b. making recommendations to the agency head regarding the appropriate disciplinary action.

2. Advance notice to employees

Prior to any (1) disciplinary suspension, demotion, and/or transfer *with disciplinary salary action*, or (2) disciplinary removal action, employees must be given oral or written notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond.

3. Employee response

Employees must be given a reasonable opportunity to respond after receiving notification.

4. Exception to advance notification requirement

- a. Management may immediately remove an employee (with pay) from the work area, without providing advance notification, when the employee's continued presence:
  - (1) may be harmful to the employee, other employees, clients, and/or patients;
  - (2) makes it impossible for the agency to conduct business; or
  - (3) may constitute negligence in regard to the agency's duties to the public and/or other employees.
- b. As soon as possible after an employee's removal from the work area for reasons stated above, management must provide the employee with notification of the intended disciplinary action and evidence of the offense for which the disciplinary action is being contemplated, and provide the employee with a reasonable opportunity to respond before taking any disciplinary action.
- c. Management shall report an employee's removal from the work area pursuant to section VII(E)(4) (a) above to the Personnel Management Information System (PMIS) as "Pre-disciplinary Action Leave." Pre-disciplinary Action Leave is a leave with pay without charge to an employee's leave

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balances for a period normally limited to up to five workdays.

5. Written notice

A Written Notice form confirming the cause and nature of the disciplinary action, and stating the employee's right to grieve the disciplinary action, shall be provided to any employee who subsequently is disciplined. A copy of the Written Notice shall be placed in the employee's personnel file.

## **VIII. PROCEDURES RELATED TO SUSPENSION**

### **A. Suspended employees' access to premises**

Employees on suspension normally shall not be allowed on the agency's premises, nor shall they be allowed to work except to fulfill previously scheduled court obligations or to file and process a grievance.

### **B. Suspensions pending investigation or court action**

1. A suspension may be imposed pending:

- a. an investigation of an employee's conduct by his or her agency; or
- b. an investigation involving the employee's conduct by the State Police and/or other federal, state, or local law enforcement agencies, or a court action.

2. Written notice of suspension

Written notification of a suspension pending an investigation or other action should be by memorandum, not by the Written Notice form.

3. Application of accrued annual leave

- a. At an employee's request, and at the agency's option, the employee's accrued annual leave may be charged to the period of suspension pending an investigation or court action so that he or she does not experience a loss of earnings, provided that the employee has sufficient accrued annual leave.
- b. If, following the conclusion of the investigation, the agency determines that a disciplinary action, such as disciplinary



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suspension or discharge, is not appropriate, any accrued annual leave that was applied to the period of suspension pending investigation or court action shall be reinstated.

4. The agency determines that a disciplinary suspension is warranted

If during, or upon the conclusion of, the period of an employee's suspension pending an investigation or court action, the agency determines that a disciplinary suspension is warranted, the disciplinary suspension shall begin immediately, and the period of suspension that the employee has served pending the investigation or court action shall count towards the period of disciplinary suspension.

5. Provisions specific to suspension pending agency investigation

- a. Length of suspension

- (1) The period of suspension pending an agency investigation shall be limited to ten workdays.
- (2) If the agency does not make a decision regarding disciplinary action within ten workdays, the employee shall be permitted to return to work pending completion of the agency investigation.

- b. The investigation concludes no employee misconduct

If the agency investigation clears the employee of any misconduct, the agency shall reinstate the employee with back pay for the period of suspension.

6. Provisions specific to suspension pending investigation by law enforcement agencies or pending a court action

- a. Length of suspension

The ten day limit on the period of suspension that applies to suspensions pending agency investigations (see section VIII(B)(5)(a) above) shall not apply if:

- (1) the court action or investigation by law enforcement agencies involves alleged criminal misconduct that occurred either on or off the job; or
- (2) the misconduct under investigation is of such a nature that to retain the employee in his or her position could

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constitute negligence in regard to the agency's duties to the public and other state employees.

- b. Treatment of suspended employee upon conclusion of investigation or court action.

Upon the conclusion of the investigation by law enforcement agencies or of the court action, the agency has the discretion to:

- (1) impose disciplinary action, including discharge; or
- (2) not to impose discipline, in which case the employee must be reinstated with full back pay.

**C. Suspension of FLSA exempt employees.**

*Exempt employees' salaries may not be reduced as the result of a suspension except as described in this section. Employees should be reimbursed promptly for any disciplinary salary reductions that are non-compliant.*

- 1. *Disciplinary suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full workday or workweek. Safety rules of major significance are defined as provisions intended to prevent serious danger to the workplace or to other employees, such as prohibiting smoking in explosives plants, oil refineries, and coalmines.*
- 2. *If an exempt employee is suspended for disciplinary reasons (Written Notice issued) related to a violation of workplace conduct (eg., inappropriate conduct, including harassment, violations of drug or alcohol policies, or violations of federal or state laws) the suspension shall be not less than a full workday. Suspensions of more than one workday must be in multiples of full workdays, e.g., a three-day (24 hour) suspension for an employee assigned to 8-hour workdays, or a three-day (30 hour) suspension for an employee assigned to 10-hour workdays. If it becomes necessary to remove an exempt employee from the workplace for a partial workday due to the employee's misconduct, the employee must be paid for that partial day's absence.*
- 3. *If an exempt employee is suspended pending an investigation by the agency or by law enforcement, or pending a court action, the employee must be paid for any partial workweek suspensions. Full workweeks of suspension pending investigation are unpaid.*
- 4. *If an exempt employee is suspended for disciplinary reasons (Written Notice issued) related to the employee's attendance or performance*

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*problems unrelated to workplace conduct, the suspension shall be not less than a full workweek. Suspensions of more than one workweek will be in multiples of full workweeks, e.g., a three-week (120-hour) suspension. An employee may not be permitted to serve a suspension related to attendance or performance other than in whole workweek segments. Less serious violations in these areas should be addressed by other means of discipline reserving suspension for the most serious or repeated violations.*

*Example: An employee's workweek is Sunday midnight through 11:59 p.m. the following Saturday. His normal work schedule is Monday through Friday, 8:00 a.m. to 4:45 p.m. His disciplinary suspension for poor attendance or performance can be Monday through Friday, 8:00 a.m. to 4:45 p.m. It is not appropriate for the disciplinary suspension to be Tuesday through Monday of the following week as this could affect the employee's exemption status under the Fair Labor Standards Act; nor is it appropriate for this employee's suspension to be less than a workweek.*

*Although probationary employees are not covered by this policy, the FLSA rules for suspension do apply.*

**D. Pay and benefits during suspension**

(REVISED 9/00)

The provisions regarding compensation and benefits set forth below apply to suspensions, whether initiated pending an investigation or court action, or imposed for disciplinary reasons.

1. Compensation

- a. All suspensions are without pay, except that employees suspended pending an investigation or court action may be allowed to use accrued annual leave to receive pay, as described in section VIII(B)(3) above.

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- b. Agencies should update payroll and PMIS records immediately upon suspending employees, and upon subsequent demotions or transfers with disciplinary salary actions, discharges, or reinstatements.

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2. Performance increases and annual leave accrual

a. Performance Increases

Employees' eligibility for performance increases may be affected by the time on suspension in accordance with Policy 1.40, Performance Planning and Evaluation.

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- b. Projected date of increase in annual leave accrual rate

Suspensions exceeding 14 calendar days shall affect an employee's length of service for purposes of annual leave accrual.

- 3. Annual and “*traditional*” sick leave accrual

An employee on suspension *will* not accrue annual or “*traditional*” sick leave, except that:

- a. if a suspension extends into a second pay period, accrual of annual and sick leave shall resume in the second pay period unless the period of suspension exceeds 15 calendar days; and
- b. if a suspension extends into a third pay period, accrual of annual and sick leave shall resume in the third pay period unless the period of suspension exceeds 31 calendar days, and so on.

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- 4. *VSDP (Virginia Sickness and Disability Program) benefits*

- a. *Employees who are suspended for disciplinary reasons may not access their VSDP benefits.*
- b. *Employees who are terminated for disciplinary reasons are not eligible to receive VSDP benefits.*

- 5. Insurance

- a. Health insurance
  - (1) A suspended employee's health insurance coverage continues until the end of the month in which the suspension began, except that there shall be no break in coverage if the employee is reinstated in time to work half of the workdays in the following month.
  - (2) If the length of the period of suspension results in a break in health insurance coverage, the suspended employee may retain his or her group insurance coverage for 12 months by paying the monthly insurance premiums (both the employee's and state's contribution) in advance.
  - (3) Upon reinstatement

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- (a) If an agency reinstates a suspended employee with back pay for any period of the suspension, the agency shall make appropriate refund(s) to the employee for the State portion of any health insurance premiums that he or she paid to continue coverage during the suspension.
- (b) If an agency reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health insurance premiums that he or she paid to continue coverage.

b. Life insurance

Life insurance coverage may continue for up to 24 months, with the agency making the full contribution.

## **IX. USE OF THE GRIEVANCE**

### **A. Use of the Employee Grievance Procedure**

Employees may challenge disciplinary actions through the Employee Grievance Procedure, and may direct questions regarding this procedure to their agencies' Human Resource Directors or the Department of Employment Dispute Resolution Counselors.

[REVISED 3/97]

### **B. *Hearing Officer's* authority**

#### **1. General authority**

A *hearing officer* may uphold, modify, or reverse disciplinary action taken by an agency so long as the panel's decision is consistent with written policy.

[REVISED 3/97]

#### **2. Reinstatement by a *hearing officer***

- a. When a *hearing officer* orders an employee's reinstatement from suspension and/or discharge or demotion, it may order:

- (1) full, partial, or no back pay; and/or

If a *hearing officer* reduces an employee's disciplinary

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record such that termination no longer could take place (i.e., the employee has only three Group I Written Notices or one Group II Written Notice), *he/she* must reinstate the employee with full back pay (minus an appropriate disciplinary suspension, if *he/she* wishes).

- (2) credit for annual and sick leave that the employee did not accrue during the period of discharge and/or suspension.

b. Interim earnings

A *hearing officer* award of back pay shall be offset by any interim earnings that the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission.

c. Repayment of health insurance premiums

- (1) If a *hearing officer* orders reinstatement with back pay for any period of the separation, the employee shall receive reimbursement for any health insurance premiums that he or she paid during the period that would have been paid by the agency if the employee had not been separated.
- (2) If a *hearing officer* orders reinstatement without back pay, the employee shall not receive reimbursement for any portion of the health insurance premiums that he or she paid during the separation.

## **X. DISTRIBUTION OF THIS POLICY AND SUPPLEMENTAL AGENCY POLICIES**

### **A. Agency policies**

1. With the prior written approval of the Director of the Department of Human Resource Management, agencies may supplement this policy to accommodate their specific needs as long as any supplemental agency policies are not inconsistent with this policy.
2. Any agency that promulgates a supplemental policy shall include that policy in future editions of the agency's employee handbook, and the agency's administrative procedures manual, if any.

**STANDARDS OF CONDUCT**

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**B. Distribution of the Department of Human Resource Management's and agencies' policies**

Agencies shall make available to employees copies of this policy and any supplemental agency policies.

**XI. AUTHORITY AND INTERPRETATION**

A. This policy is issued by the Department of Human Resource Management pursuant to the authority provided in Chapter 10, Title 2.2, of the Code of Virginia. This policy supersedes Policy 1.05, Standards of Conduct and Performance, issued September 18, 1989; and Rule 9.5, Employment Outside the Employing Agency, of the Rules for the Administration of the Virginia Personnel Act, effective July 1, 1977.

[REV. 01]

B. The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with section 2.2-1201 of the Code of Virginia. Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Office of *Agency Human Resource Services*. The Department of Human Resource Management reserves the right to revise or eliminate this policy as necessary.